

Senate Bill 151

By: Senator Wiles of the 37th and Hamrick of the 30th

AS PASSED

AN ACT

To amend Code Section 17-10-1.2 and Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to an oral victim impact statement and grants of pardons, paroles, and other relief, respectively, so as to provide courts and the State Board of Pardons and Paroles greater input from crime victims, their families, and other interested witnesses; to provide for a definition; to provide for victim notification of parole board hearings; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 17-10-1.2 of the Official Code of Georgia Annotated, relating to an oral victim impact statement, is amended by revising subsection (a) as follows:

"(a)(1) In all cases in which the death penalty may be imposed, subsequent to an adjudication of guilt and in conjunction with the procedures in Code Section 17-10-30, the court shall allow evidence from the family of the victim, or such other witness having personal knowledge of the victim's personal characteristics and the emotional impact of the crime on the victim, the victim's family, or the community. Except as provided in paragraph (4) of this subsection, such evidence shall be given in the presence of the defendant and of the jury and shall be subject to cross-examination.

(2) The admissibility of the evidence described in paragraph (1) of this subsection and the number of witnesses other than immediate family who may testify shall be in the sole discretion of the judge and in any event shall be permitted only in such a manner and to such a degree as not to inflame or unduly prejudice the jury. As used in this paragraph, the term 'immediate family' means the victim's spouse, child, parent, stepparent, grandparent, grandchild, sibling, stepbrother, stepsister, mother-in-law, father-in-law, sister-in-law, or brother-in-law and the spouses of any such individuals.

(3) In all cases other than those in which the death penalty may be imposed, prior to fixing of the sentence as provided for in Code Section 17-10-1 or the imposing of life

imprisonment as mandated by law, and before rendering the appropriate sentence, including any order of restitution, the court shall allow evidence from the victim, the family of the victim, or such other witness having personal knowledge of the impact of the crime on the victim, the family of the victim, or the community. Except as provided in paragraph (4) of this subsection, such evidence shall be given in the presence of the defendant and shall be subject to cross-examination. The admissibility of the evidence described in this paragraph shall be in the sole discretion of the judge and in any event shall be permitted only in such a manner as to allow for cross-examination by the defendant and to such a degree as not to unduly prejudice the defendant.

(4) Upon a finding by the court specific to the case and the witness that the witness would not be able to testify in person without showing undue emotion or that testifying in person will cause the witness severe physical or emotional distress or trauma, evidence presented pursuant to this subsection may be in the form of, but not limited to, a written statement or a prerecorded audio or video statement, provided that such witness is subject to cross-examination and the evidence itself will not be available to the jury during deliberations. Photographs of the victim may be included with any evidence presented pursuant to this subsection."

SECTION 2.

Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to grants of pardons, paroles, and other relief, is amended by revising Code Section 42-9-43, relating to information to be considered by the board, conduct of investigation and examination, and determination as to grant of relief, as follows:

"42-9-43.

(a) The board, in considering any case within its power, shall cause to be brought before it all pertinent information on the person in question. Included therein shall be:

- (1) A report by the superintendent, warden, or jailer of the jail or state or county correctional institution in which the person has been confined upon the conduct of record of the person while in such jail or state or county correctional institution;
- (2) The results of such physical and mental examinations as may have been made of the person;
- (3) The extent to which the person appears to have responded to the efforts made to improve his or her social attitude;
- (4) The industrial record of the person while confined, the nature of his or her occupations while so confined, and a recommendation as to the kind of work he or she

is best fitted to perform and at which he or she is most likely to succeed when and if he or she is released;

(5) The educational programs in which the person has participated and the level of education which the person has attained based on standardized reading tests; and

(6) The written, oral, audiotaped, or videotaped testimony of the victim, the victim's family, or a witness having personal knowledge of the victim's personal characteristics.

(b) The board may also make such other investigation as it may deem necessary in order to be fully informed about the person.

(c) Before releasing any person on parole, the board may have the person appear before it and may personally examine him or her. Thereafter, upon consideration, the board shall make its findings and determine whether or not such person shall be granted a pardon, parole, or other relief within the power of the board; and the board shall determine the terms and conditions thereof. Notice of the determination shall be given to such person and to the correctional official having him or her in custody.

(d) If a person is granted a pardon or a parole, the correctional officials having the person in custody, upon notification thereof, shall inform him or her of the terms and conditions thereof and shall, in strict accordance therewith, release the person.

(e) The board shall send written notification of the parole decision to the victim or, if the victim is no longer living, to the family of the victim."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.